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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

KATHRYN M. STRONG,

Defendant and Appellant.

A113139

(Lake County
Super. Ct. No. LP32198.01)

Defendant Kathryn M. Strong was convicted of embezzlement and grand theft. (Pen. Code, §§ 508, 487, subd. (a).) She was placed on probation, ordered to spend 180 days in county jail, and ordered to pay restitution to the victims. She appealed and we affirmed the judgment. (*People v. Strong* (Jan. 19, 2006, A109666) [nonpub. opn.].) Defendant moved to modify the conditions of her probation by reducing the amount of restitution. After an evidentiary hearing, the trial court denied the motion. Defendant contends she was denied due process because the court did not issue a statement of decision giving its reasons for its decision. We affirm because the trial court was not required to state reasons and its ruling was otherwise proper.

I. FACTS

The facts of defendant's crimes are set forth in our prior opinion, and need not be repeated here. It suffices to say that defendant, an employee of the victims' restaurant, embezzled money by writing a series of unauthorized checks on the victims' account.

Defendant wrote 13 checks without authorization, in the total amount of \$10,500.24. She made three \$1,000 deposits into the restaurant account. The trial court ordered her to pay restitution to the victims in the amount of \$7,500.24.

The probation report in A109666 shows that the restitution amount appears to have been calculated one of two ways. One part of the report lists the amount that defendant embezzled as \$10,500.24, subtracted the \$3,000 in deposits, and arrived at a restitution amount of \$7,500.24. Another part of the report lists the amount that defendant embezzled as \$21,300.24, subtracted \$10,800 as the amount defendant was entitled in salary—but apparently never received—and the \$3,000 in deposits, and again arrived at a restitution amount of \$7,500.24. The figure of \$21,300.24 comes from an informal accounting prepared by the district attorney, apparently during its investigation. But apparently not all evidence of financial loss was introduced at trial. As we determined in our prior opinion, the evidence admitted at trial shows that the amount embezzled was \$10,500.24.

Nine months after sentencing, defendant moved to modify her conditions of probation by reducing the amount of restitution. Defendant’s counsel, who was not counsel at trial, focused on the second computation method based on the \$21,300.24 figure from the district attorney’s accounting. Counsel argued that defendant had received a 1099 form from the IRS, which showed that she was entitled to \$12,950 in salary, not \$10,800 as mentioned in the probation report. Counsel argued that restitution should be reduced by the difference, \$2,150.

The trial court held a hearing on the motion. Defendant testified that the 1099 form showed she was entitled to \$12,950 in salary, not \$10,800. The court admitted the 1099 form and the one-page accounting into evidence.

After brief argument the trial court continued the matter for decision. At the next hearing the court denied the motion, stating “I find that the restitution that was set at sentencing appears to be appropriate to reimburse the victims for the loss incurred.” Defense counsel asked the court if it was “appropriate for the defendant to ask for a

statement of decision on . . . your denial of the motion[.]” The court replied, “That request is denied.”

II. DISCUSSION

Defendant contends the trial court’s refusal to state reasons deprived her of due process. She argues that in the absence of such a statement, she was unable to determine whether the trial court acted on “factual misconceptions”; she “was denied the opportunity to present the trial court with legal arguments that might persuade it to change its decision”; and she was deprived of the opportunity to make a record sufficient for meaningful appellate review.

We disagree. A trial court is not required by statute or decisional law to state its reasons for imposing a particular amount of restitution. (Pen. Code, §§ 1202.4, 1203.1; *People v. Urbano* (2005) 128 Cal.App.4th 396, 405; see *People v. Gray* (1986) 187 Cal.App.3d 213, 221-222; *People v. Romero* (1985) 167 Cal.App.3d 1148, 1156.) There is no evidence the trial court acted on any factual misrepresentation. The trial court was aware that defendant had embezzled from the victims a net amount of \$7,500.24, and saw no reason to reduce that figure.¹ The trial court made its decision on the motion after a proper review of the full record. Defendant was permitted to testify and her counsel was able to present his legal argument fully. The record is adequate for our review. Defendant’s due process rights were not violated by the failure to state reasons.

The trial court acted properly in denying the motion. The original restitution amount reflects the monies embezzled by defendant, for which she must make restitution.

¹ The two different computational methods in the probation report both reached the same amount for restitution: \$7,500.24. Any claim by defendant that she is entitled to more salary money from the victims does not change the amount she embezzled, and any such claim is properly raised in a separate civil proceeding.

III. DISPOSITION

The order denying the motion to modify the conditions of probation is affirmed.

Marchiano, P.J.

We concur:

Swager, J.

Margulies, J.